

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TIME SQUARE CONSTRUCTION, INC.

V.

**BUILDING AND CONSTRUCTION TRADES COUNSEL
OF GREATER NEW YORK, ENTERPRISE ASSOCIATION
OF STEAMFITTERS LOCAL 638 OF THE UNITED
ASSOCIATION, ET AL**

: Case No. 07-CIV-7403
_: (Judge Sullivan)

ANSWER TO COMPLAINT

Local 46 Metallic Lathers Union and Reinforcing Ironworkers of New York City and Vicinity (hereinafter “Local 46 or Union”) files the within Answer to the Complaint in the above-referenced matter in the correspondingly numbered paragraphs below:

NATURE OF THIS ACTION

1. It is admitted that this is an action to seek damages pursuant to Section 303 of the Labor Management Relations Act of 1947, 29 U.S.C. §187. It is denied that Local 46 has in any way violated the National Labor Relations Act or has engaged in an, illegal picketing or secondary boycott of Plaintiff Time Square Construction, Inc. at a jobsite located at 785 Eighth Avenue, New York City, New York, with the object of forcing Time Square to cease doing business with non-union affiliated sub contractors working at the jobsite or to assign work to sub contractors affiliated with the Building and Construction Trades Council of Greater New York.

JURISDICTION AND VENUE

2. It is denied that there is any basis for the jurisdiction of this Court, pursuant to Section 303(a) of the Labor Management Relations Act of 1947, 29 U.S.C. §185.

3. It is denied that venue is proper in this Court or that Defendant Local 46 has engaged in any acts giving rise to the Complaint in this matter.

THE PARTIES

4. Defendant Local 46 is without knowledge of information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 4 of the Complaint and, after reasonable investigation, denies same and demands proof thereof at time of trial.

5. Admitted.

6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

15. Admitted.

16. Admitted.

FACTS

17. After reasonable investigation Defendant Local 46 is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 17 of the Complaint and therefore denies same and demands proof thereof at time of trial.

18. After reasonable investigation Defendant Local 46 is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 18 of the Complaint and therefore denies same and demands proof thereof at time of trial.

19. Defendant Local 46 denies the allegations of paragraph 19 of the Complaint as stated.

20. After reasonable investigation Defendant Local 46 is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 20 of the Complaint and therefore denies same and demands proof thereof at time of trial.

21. After reasonable investigation Defendant Local 46 is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 21 of the Complaint and therefore denies same and demands proof thereof at time of trial.

22. After reasonable investigation Defendant Local 46 is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 22 of the Complaint and therefore denies same and demands proof thereof at time of trial.

23. Defendant Local 46 denies the allegations of paragraph 23 of the Complaint.

24. Defendant Local 46 denies the allegations of paragraph 24 of the Complaint.

25. After reasonable investigation Defendant Local 46 is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 25 of the Complaint and therefore denies same and demands proof thereof at time of trial.

26. It is admitted that Local 638 began leafleting at this job site. The remaining allegations of paragraph 26 of the Complaint is denied.

27. Defendant Local 46 denies the allegations of paragraph 27 of the Complaint.

28. It is admitted that Times Square set up reserved gates on this jobsite. After reasonable investigation Defendant Local 46 is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of paragraph 28 of the Complaint and therefore denies same and demands proof thereof at time of trial.

29. Defendant Local 46 denies the allegations of paragraph 29 of the Complaint.

30. Defendant Local 46 denies the allegations of paragraph 30 of the Complaint.

31. Defendant Local 46 denies the allegations of paragraph 31 of the Complaint.

32. After reasonable investigation Defendant Local 46 is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 32 of the Complaint and therefore denies same and demands proof thereof at time of trial.

33. After reasonable investigation Defendant Local 46 is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 33 of the Complaint and therefore denies same and demands proof thereof at time of trial.

34. After reasonable investigation Defendant Local 46 is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 34 of the Complaint and therefore denies same and demands proof thereof at time of trial.

35. It is admitted that Laborers Local 79 began picketing at the Times Square Jobsite and had a large inflatable rat directly in front of the jobsite. The remaining allegations of paragraph 35 of the Complaint are denied.

36. It is admitted that representatives of Laborers Local 79 picketed the jobsite carrying placards. The remaining allegations of paragraph 36 of the Complaint are denied.

- 37. Defendant Local 46 denies the allegations of paragraph 37 of the Complaint.
- 38. Defendant Local 46 denies the allegations of paragraph 38 of the Complaint.
- 39. Defendant Local 46 denies the allegations of paragraph 39 of the Complaint.
- 40. Defendant Local 46 denies the allegations of paragraph 40 of the Complaint.
- 41. Defendant Local 46 denies the allegations of paragraph 41 of the Complaint.
- 42. Defendant Local 46 denies the allegations of paragraph 42 of the Complaint.
- 43. Defendant Local 46 denies the allegations of paragraph 43 of the Complaint.
- 44. Defendant Local 46 denies the allegations of paragraph 44 of the Complaint.
- 45. Defendant Local 46 denies the allegations of paragraph 45 of the Complaint.

SECOND DEFENSE

- 46. The Complaint fails to state a claim upon which relief may be granted.

THIRD DEFENSE

- 47. Defendant Local 46 has not at any time induced or encouraged its members, or anyone else, to cease work on the jobsite at 785 Eighth Avenue, New York City, New York.

FOURTH DEFENSE

- 48. Defendant Local 46 has a right under its collective bargaining agreement to have its members refuse to cross any picket line on any job at which a picket line is located and members of Local 46 may have exercised their right and refused to work on any job where a picket line was located.

- 49. Defendant Local 46 has a right under the National Labor Relations Act, as amended, to have its members refuse to cross any picket line on any job at which a picket line is located and members of Local 46 may have exercised their right and refused to work on any job where a picket line was located.

WHEREFORE, Defendant Local 46 Metallic Lathers Union and Reinforcing Ironworkers of New York City and Vicinity request that the Complaint herein be dismissed and that Defendant Local 46 be granted such other and further relief as this Court deems just and proper.

Respectfully submitted,

/s/
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(RHM 5158)
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